

STATEMENT OF THE ISSUES

I. WHETHER THE LOWER COURTS ERRED IN FAILING TO SUPPRESS THE EVIDENCE SEIZED PURSUANT TO SEARCH WARRANTS 145 AND 146.

II. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO EXCLUDE THE CRIME SCENE VIDEO.

III. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO PREVENT EXCLUSION OF PROSPECTIVE JURORS BECAUSE OF THEIR RELIGION

IV. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT DENIAL OF DEFENDANT'S MOTION TO REFRAIN FROM EXCLUDING JURORS WHO ARE NOT "DEATH-QUALIFIED" UNDER WITHERSPOON AND WAINWRIGHT.

V. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO HAVE ONE JURY DETERMINE HIS GUILT OR INNOCENCE AND A SEPARATE JURY TO DETERMINE HIS SENTENCE.

VI. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO HAVE TENN. CODE ANN. § 39-13-204(H) DECLARED UNCONSTITUTIONAL.

VII. WHETHER THE COURT OF CRIMINAL APPEALS ERRED BY AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO DECLARE THE DEATH PENALTY CRUEL AND INHUMAN PUNISHMENT UNDER THE EIGHTH AMENDMENT

VIII. WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION TO DISMISS THE INDICTMENT PURSUANT TO ARTICLE I, SECTION 19 OF THE TENNESSEE

CONSTITUTION

IX. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO DISMISS THE INDICTMENT BECAUSE THE GRAND JURY NEVER FOUND PROBABLE CAUSE AS TO THE STATUTORY AGGRAVATING CIRCUMSTANCES RELIED UPON BY THE STATE.

X. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO DECLARE TENN. CODE ANN. § 39-13-204(C) UNCONSTITUTIONAL

XI. WHETHER THE COURT OF CRIMINAL APPEALS ERRED BY AFFIRMING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO BE ALLOWED TO ADDRESS THE JURY LAST.

XII. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION TO CHARGE THE JURY ON VICTIM IMPACT EVIDENCE IN ACCORDANCE WITH STATE V. NESBIT, 978 S.W.2D 872 (TENN. 1998).

XIII. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION TO ALLOW THE STATE TO AMEND THE INDICTMENT

XIV. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION THAT DEFENDANT WAS COMPETENT TO STAND TRIAL

XV. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION TO EXCLUDE REVEREND JOE INGLE AND MARY ANN HEA, A SOCIAL WORKER, FROM TESTIFYING AT THE COMPETENCY HEARING.

XVI. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S FAILURE TO GRANT A NEW COMPETENCY HEARING BASED UPON THE BIAS OF DR. TURNER-GRAHAM, THE TRIAL COURT'S INDEPENDENT EXPERT.

XVII. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION TO EXCLUDE EXHIBIT NUMBERS 138 AND 139.

XVIII. WHETHER THE EVIDENCE IS LEGALLY INSUFFICIENT TO SUPPORT DEFENDANT'S CONVICTIONS

XIX. WHETHER DEFENDANT'S CONVICTIONS MUST BE REVERSED BECAUSE OF NUMEROUS ACTS OF PROSECUTORIAL MISCONDUCT THAT OCCURRED IN THE GUILT PHASE

XX. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION TO ADMIT THE PHOTOGRAPHS OF THE VICTIMS AT THE CRIME SCENE.

XXI. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S REFUSAL TO CHARGE THE JURY AS TO THE (J)(6) MITIGATOR.

XXII. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION TO CHARGE THE NON-STATUTORY MITIGATORS IN THE SAME AFFIRMATIVE MANNER AS THE STATUTORY MITIGATORS

XXIII. WHETHER THE TRIAL COURT ERRED IN FAILING TO INCLUDE THE (J)(9) "CATCH-ALL" MITIGATOR IN THE JURY INSTRUCTIONS

XXIV. WHETHER THE DEATH SENTENCE MUST BE REVERSED BECAUSE OF PROSECUTORIAL MISCONDUCT DURING THE PENALTY PHASE

XXV. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN CONCLUDING THAT THE EVIDENCE IS SUFFICIENT TO SUPPORT THE JURY'S FINDING OF THE HEINOUS, ATROCIOUS OR CRUEL AGGRAVATOR

XXVI. WHETHER THE COURT OF CRIMINAL APPEALS ERRED IN FINDING THAT THE EVIDENCE IS SUFFICIENT TO SUPPORT THE JURY'S FINDING THAT THE AGGRAVATING


CIRCUMSTANCES OUTWEIGHED THE MITIGATING
CIRCUMSTANCES BEYOND A REASONABLE DOUBT

XXVII. WHETHER THE SENTENCE IN THE INSTANT CASE IS
DISPROPORTIONATE TO THE CRIME

CONCLUSION

In view of the foregoing discussion, Defendant respectfully requests that this court either reverse and dismiss his first-degree murder convictions, or reverse those convictions and remand for a new matter on those charges, depending upon which issues the court finds have merit. In the event that this court affirms his first-degree murder convictions, Defendant asks that this court reverse his death sentences and order sentences of life imprisonment, or reverse his death sentences and remand for a new sentencing hearing, depending upon which issues the court finds have merit.

Respectfully submitted,


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